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# Exhibit 10

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
No.: 1:20-CV-05441 (KPF)(KWL)

UNIFORMED FIRE OFFICERS )  
ASSOCIATION, et al., )  
                          )  
Plaintiffs,            )  
                          )  
vs.                    )  
                          )  
BILL de BLASIO, et al., )  
                          )  
Defendants.            )  
\_\_\_\_\_ )

REMOTE VIDEOTAPED DEPOSITION OF

KERRY JAMIESON

Thursday, August 6, 2020

REPORTED BY:

RHONDA HALL-BREUWET, RDR, CRR, LCR, CCR, FPR

JOB NO. 28092

1 KERRY JAMIESON

2 the CCRB's procedures and policies in  
3 complying with FOIL.

4 Is that what this manual does?

5 A Yes.

6 Q Okay. And it also directs the  
7 records access officer to comply with the  
8 responsibilities, procedures, and policies  
9 that are set forth in the manual?

10 A Yes, that's what it says.

11 Q Okay. If you look towards the  
12 bottom of the paragraph, there's a highlighted  
13 sentence that says:

14 "The New York State -- New York  
15 Department of State's Committee on Open  
16 Government is responsible for overseeing and  
17 advising the government, public, and news  
18 media on FOIL."

19 Do you see that?

20 A Yes.

21 Q Okay. Do you have an  
22 understanding as to what the Committee on Open  
23 Government is and what its function is?

24 A Yes.

25 Q Can you please describe its

1                   KERRY JAMIESON

2       function and how you worked with it.

3                   A           Well, the main function is a  
4       Committee on Open Government provides guidance  
5       on access to public records, and, you know,  
6       the FOIL law can be found on its Website and  
7       they also provide advisory opinions to people  
8       writing in on various questions involving the  
9       FOIL law.

10          Q           Okay.

11          A           They have other functions as well,  
12       but that's -- for FOIL purposes, that's what  
13       they do.

14          Q           Okay. And as part of your job, do  
15       you review the Committee on Open Government's  
16       opinions?

17          A           Not regularly, but I have reviewed  
18       some.

19          Q           Okay. Would you consider the  
20       Committee on Open Government to be the  
21       statewide authority on the application of  
22       FOIL?

23          A           What do you mean -- "statewide  
24       authority," what do you mean by that?

25          Q           Is it the state agency that

1 KERRY JAMIESON

2 where -- anybody else at the CCRB responsible  
3 for responding to FOILs rejected an opinion of  
4 the advisory committee -- of the advisory --  
5 an advisory opinion on the Committee on Open  
6 Government?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: Not that I'm aware  
10 of.

11 BY MR. COLES:

12 Q Are you aware that the committee  
13 has long held that the release of  
14 unsubstantiated and pending allegations of  
15 misconduct would constitute an unreasonable  
16 invasion of personal privacy?

17 MS. QUINN: Objection.

18 You can answer.

19 THE WITNESS: I'm aware that the  
20 committee has issued advisory opinions  
21 stating that an agency can assert that  
22 exception to the FOIL law if they want to,  
23 but it's not mandatory that it's asserted.

24 BY MR. COLES:

25 Q Right. My question was a little

1                           KERRY JAMIESON  
2       different, though. And my question is, are  
3       you aware that the Committee on Open  
4       Government has actually issued a number of  
5       opinions saying that the release of  
6       unsubstantiated or unfounded allegations is a  
7       invasion of privacy?

8                           MS. QUINN: Objection.

9                           THE WITNESS: My --

10                          MS. QUINN: I believe that she  
11       answered that question.

12                          But you can answer.

13                          THE WITNESS: I was going to say,  
14       my answer remains the same.

15       BY MR. COLES:

16       Q                 Okay. Does the CCRB have a  
17       position as -- as to the release of  
18       unsubstantiated and unfounded allegations  
19       against a police officer that believes that  
20       those allegations are not an unwarranted  
21       invasion of privacy?

22                          MS. QUINN: Objection to form.

23                          You can answer.

24                          THE WITNESS: I'm not sure I  
25       understand your question.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. Does this -- does the CCRB  
4 have a position as to whether or not the  
5 release of unsubstantiated or unfounded  
6 complaints against a police officer would  
7 constitute an unwarranted invasion of personal  
8 privacy?

9 A I don't know that we have a  
10 position. I know that this -- from my  
11 understanding, the CCRB has not and does not  
12 assert that FOIL exception when responding to  
13 a FOIL request that involves those records.

14 Q I'm sorry. I didn't really  
15 understand your answer. Say that one more  
16 time.

17 A My answer was that --

18 MS. QUINN: I'm sorry. Can you  
19 read back -- can you read back her answer,  
20 please.

21 (Previous answer read back.)

22 BY MR. COLES:

23 Q Could you explain what you mean by  
24 that.

25 A Sure. So to my knowledge, the

1 KERRY JAMIESON

2 CCRB does not assert an unwarranted invasion  
3 of privacy FOIL exception on the basis of what  
4 the outcome of the case was.

5 Q My question -- does it as a policy  
6 matter assert the exception as to unfounded  
7 and unsubstantiated allegations?

8 MS. QUINN: Objection.

9 You can answer.

10 THE WITNESS: The CCRB doesn't  
11 assert the FOIL from -- again, to my  
12 knowledge, the CCRB does not assert the  
13 unwarranted invasion of privacy exception  
14 based on whatever the outcome of the case  
15 was. That does not factor into whether or  
16 not that exception is asserted.

17 BY MR. COLES:

18 Q So even if a case is  
19 unsubstantiated or unfounded, the CCRB will  
20 not assert the unwarranted invasion of  
21 personal privacy exception? Is that your  
22 testimony?

23 MS. QUINN: Objection. Asked and  
24 answered.

25 But you may answer.

1 KERRY JAMIESON

2 Pardon me.

3 THE WITNESS: The records access  
4 officer takes every FOIL request and  
5 evaluates it individually. However, to my  
6 knowledge, that exception is not asserted  
7 on that basis.

8 BY MR. COLES:

9 Q Why not?

10 A Why not? Well, because the  
11 records access officer does not -- we've never  
12 done an analysis of whether or not an  
13 allegation is unsubstantiated or exonerated,  
14 unfounded doesn't have to be -- it's not an  
15 exception that needs to be asserted. It  
16 doesn't fall -- it's not mandatory that that  
17 exception is asserted under the FOIL law.

18 Q Okay. And are you saying that as  
19 a policy matter the CCRB has decided not to  
20 assert that exemption?

21 MS. QUINN: Objection. Asked and  
22 answered.

23 You may answer.

24 THE WITNESS: I would say that to  
25 my knowledge, the records access officer

1 KERRY JAMIESON

2 does not assert that the unwarranted  
3 invasion of privacy exception for -- based  
4 on the outcome of a CCRB investigation.

5 MR. COLES: Evan, you can take the  
6 exhibit down for the time being.

7 BY MR. COLES:

8 Q Does the CCRB have a policy as to  
9 whether or not it releases the disciplinary  
10 records of claims and allegations that are  
11 pending?

12 A I'm sorry. I don't know if I  
13 understand your question.

14 Q Okay. Does the CCRB -- well, you  
15 understand that a claim or allegation at the  
16 CCRB will go through a process, correct?

17 A Uh-huh.

18 Q Okay. And then ultimately that  
19 process will result in a claim being  
20 unsubstantiated or substantiated, correct?

21 MS. QUINN: Objection. This is  
22 outside the scope of this deposition.

23 MR. COLES: It's not.

24 MS. QUINN: Asking about the  
25 process of CCRB investigations is outside

1 KERRY JAMIESON

2 A No.

3 Q Will you tell me the substance of  
4 the discussions there?

5 MS. QUINN: Objection.

6 I'm instructing the witness not to  
7 answer that question as it breaches  
8 attorney-client privilege.

9 BY MR. COLES:

10 Q Will you tell me the reasons why  
11 the CCRB does not follow the Committee on Open  
12 Government's guidance that unsubstantiated or  
13 unfounded allegations are subject to the  
14 privacy exemption of FOIL?

15 MS. QUINN: Objection.

16 You can answer.

17 THE WITNESS: Well, I disagree  
18 with the premise of your question. The --  
19 my understanding of the guidance from the  
20 Committee on Open Government is that the  
21 unwarranted invasion of privacy exception  
22 could be asserted for that purpose, but  
23 that agency is not required to assert that.  
24 So I don't believe that the CCRB does not  
25 follow the guidance.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Are you aware recently that the  
4 CCRB released records of 81,000 police  
5 officers to the New York Civil Liberties  
6 Association?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I'm aware.

10 BY MR. COLES:

11 Q Okay. Is it your testimony that  
12 the records access officer in that case  
13 provided or conducted an individualized  
14 determination of the privacy exemption for all  
15 those 81,000 officers?

16 MS. QUINN: Objection.

17 You can answer.

18 THE WITNESS: I believe that the  
19 records access officer -- again, I was not  
20 that person, but the request was for  
21 similar records. So in an individual -- so  
22 there was no need to do a line by line of  
23 every -- of all 81,000-plus officers. I  
24 believe it was the determination to give  
25 out information -- limited information

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2 about cases.

3 So from my understanding, pending  
4 cases, which means cases that were pending  
5 at the CCRB or are pending in the APU were  
6 not included in that disclosure. Cases  
7 that were mediated were not just included  
8 in that disclosure. I believe cases that  
9 were referred were not included in that  
10 disclosure.

11 So I do believe that the records  
12 access officer made a determination based  
13 on -- that -- those records, whether or not  
14 they were substantiated or unsubstantiated,  
15 unfounded, exonerated, that did not go  
16 to -- that did not warrant the assertion of  
17 that privacy exemption.

18 BY MR. COLES:

19 Q Is it your testimony she looked at  
20 all of the claims for the 81,000 officers  
21 claim by claim?

22 MS. QUINN: Objection.

23 You can answer.

24 THE WITNESS: That's not my  
25 testimony. My testimony is that the

1                           KERRY JAMIESON  
2     exemptions, CCRB noted that the request for  
3     records relating to unsubstantiated matters  
4     would constitute an unreasonable invasion of  
5     privacy?"

6                           Do you see that?

7     A        Yes, I see it.

8     Q        Okay.

9                           MS. QUINN: Can I just ask that we  
10    scroll down to the paragraph at the bottom  
11    of the first column? I just want to see  
12    the paragraph preceding.

13                          Thank you.

14    BY MR. COLES:

15     Q        Do you have an understanding as to  
16    the basis for the CCRB's conclusion that the  
17    request for records related to unsubstantiated  
18    matters would constitute an unreasonable  
19    invasion of privacy?

20     A        I did not work at the CCRB at the  
21    time of that letter. So no, I don't know.

22     Q        Okay. But wasn't that the  
23    practice at the CCRB at the time you joined in  
24    August 2017?

25                          MS. QUINN: Objection.

1 KERRY JAMIESON

2 MR. COLES: We can mark as the --  
3 what exhibit are we up to?

4 CERTIFIED STENOGRAPHER: Since I'm  
5 not handling them, I have not kept up with  
6 the numbers.

7 MR. COLES: Okay. We're going to  
8 go to the next exhibit, the -- go to the  
9 next page of this PDF.

10 MR. NORTH: This should be  
11 Exhibit 6 [sic].

12 MR. COLES: This will be 6-A  
13 [sic].

14 (Exhibit Number 7-A, Letter  
15 from Michael T. Murray to Jonathan  
16 Darche, dated 7/8/20, was marked  
17 for identification.)

18 BY MR. COLES:

19 Q This is a letter from the Office  
20 of General Counsel that's a number of pages  
21 long to the executive director of the CCRB.

22 Is this the letter you're  
23 referring to?

24 A I believe so. I believe that  
25 this -- I remember the longer letter.

1 KERRY JAMIESON

2 Q Okay. And did you, in fact,  
3 prepare a response to the letter?

4 A I did not.

5 Q Did anybody?

6 MS. QUINN: Objection.

7 You can answer.

8 THE WITNESS: Not to my knowledge.

9 I was the person that was supposed to  
10 respond and I did not.

11 BY MR. COLES:

12 Q And why did you choose not to  
13 respond?

14 MS. QUINN: Objection.

15 You can answer.

16 THE WITNESS: I didn't choose not  
17 to respond. The instant lawsuit was filed.

18 BY MR. COLES:

19 Q Why did that stop you from  
20 responding?

21 MS. QUINN: Objection. I'm going  
22 to instruct her not to answer as that  
23 impinges upon attorney-client privilege.

24 BY MR. COLES:

25 Q Did you prepare a draft of a